

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RAMON SANCHEZ,)	
)	
Plaintiff,)	Civil Action No. 20-1005
)	
v.)	District Judge W. Scott Hardy
)	Magistrate Judge Maureen P. Kelly
CAPTAIN SILBAUGH, LIEUTENANT)	
LEWIS, STEVEN LONGSTRETH,)	
PSYCHOLOGIST WHITMAN and)	
PSYCHIATRIST PUSHKALAI PILLAI,)	
)	
Defendants.)	

MEMORANDUM ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) entered by Magistrate Judge Maureen P. Kelly on November 29, 2023. (Docket No. 212). The R&R recommends that the claims against Defendant Captain Silbaugh be dismissed pursuant to Federal Rule of Civil Procedure 25(a)(1), a Suggestion of Death as to Stephen C. Silbaugh having been filed with a Certificate of Service certifying that the Suggestion of Death was served on Plaintiff by First Class Mail at his address of record. (*See id.* at 1, 2 (citing Docket No. 200)). Service of the R&R was made on Defendants through the Court’s CM/ECF system, and they were advised that any objections to same were due by December 13, 2023. (*See id.* at 2-3 and docket entry). Service of the R&R was made on Plaintiff by mail, and he was informed that any objections were due by December 18, 2021. (*See id.*). Thereafter, no party filed any objections to the R&R.

The Federal Rules of Civil Procedure provide that a party may file specific written objections to the proposed findings and recommendations of a magistrate judge, and a district judge must conduct a *de novo* review of any part of the R&R that has been properly objected to. *See* Fed. R. Civ. P. 72(b)(2), (b)(3); 28 U.S.C. § 636(b)(1). Here, however, because no party filed

any objections to the R&R, which explicitly stated that failure to file timely objections “waives the right to appeal” (Docket No. 212 at 2), this Court reviews the magistrate judge’s decision for plain error. *See Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006); *see also* Fed. R. Civ. P. 72(b), Advisory Committee Notes (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”).

In this case, upon careful review of the R&R and the entire record, and finding no plain error on the face of the record, the Court will accept Judge Kelly’s recommendation. In so ruling, the Court agrees with Judge Kelly’s recommendation that because Defendants’ counsel filed a notice of Captain Silbaugh’s death on August 8, 2023, and the time to file a motion to substitute party expired on November 6, 2023, and no party has filed a motion for substitution, Plaintiff’s claims against Captain Silbaugh should therefore be dismissed. (*See* Docket No. 212 at 2). As such, the Court will adopt the R&R as the Opinion of the Court, and will dismiss Plaintiff’s claims against Captain Silbaugh, as more specifically set forth below.

Accordingly, in view of the foregoing, the Court enters the following Order:

AND NOW, this 21st day of December, 2023,

IT IS HEREBY ORDERED that the Report and Recommendation (Docket No. 212 (“R&R”)) is ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that, for the reasons set forth in the R&R, Plaintiff’s claims against Defendant Captain Silbaugh are DISMISSED WITH PREJUDICE.

/s/ W. Scott Hardy
W. Scott Hardy
United States District Judge

cc/ecf: All counsel of record
Ramon Sanchez (via U.S. Mail)